

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

S7 08 Cr. 429-02 (DLC)

vs.

FREDI MARTINEZ.

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**SENTENCING MEMORANDUM**

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June 29, 2009

Honorable Denise L. Cote  
United States District Judge  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re. United States v. Fredi Martinez  
S7 08 Cr. 429-02 (DLC)

Dear Judge Cote:

I represent the Defendant in the above referenced matter and he is currently scheduled for sentencing before Your Honor on Friday, July 10, 2009, at 2:00 p.m. I make this sentencing submission on behalf of Mr. Martinez.

First, I have reviewed the PSR with my client and he does have objections to some of its contents.

First, Mr. Martinez has absolutely no knowledge of any of the events described in great detail paragraph 45. He was in no way involved in those events.

Second, Mr. Martinez has never been in North Carolina and, thus, denies the allegations contained in paragraph 46, although the Probation Officer seems to acknowledge that this is an error.

As to paragraph 50, although it may be of little or no importance, the second line in that paragraph which identifies an individual as "Carmen Amos" should read "Carmen

Ramos" instead. Also at the bottom of that paragraph where it is set forth that "Amanda" may require surgery", the name of this individual is actually "Samantha".

Finally, where paragraph 66 alleges the existence of "a tax lien", Mr. Martinez believes he has no such lien which is supported by the fact that he says he has been receiving tax refunds in recent years arising from his taxi driving income filings.

As to the appropriate sentence for Mr. Martinez, I respectfully submit that the advisory guideline sentencing range suggested in this case far exceeds Title 18 U.S.C. § 3553(a) goals and, indeed, under that statute the mandatory statutory minimum of ten years is more than what is called for under the considerations contained in that statute.

Some of the Title 18 U.S.C. § 3553(a) considerations which tilt in favor of a lesser sentence than that suggested by the advisory guideline range include the following:

First, it must be noted that, apparently, Mr. Martinez, unlike the vast majority of criminal defendants in similar cases whose criminal activity is ended by their arrest, ended **his** activity more than three years (as ¶ 2 of the PSR, coupled with the "release status" paragraph on page one makes plain) prior to his arrest and had been living a law abiding life; supporting his wife and children. He had been working as a taxi driver in his most recent job for more than a year up to his arrest, as is born out by one of the letters attached, written by his most recent employer.

Second, by all accounts, including many of the attached letters, Mr. Martinez is a loving and supportive father who is sorely needed by his children. I realize that it is often the case that the innocent loved ones and family members of a wrongdoer suffer as the result of the punishment of that individual. I don't, by any means, therefore suggest that because of that fact the transgressor should escape all punishment. I do, however, suggest

that that fact, especially where, as here, it arguably exists in greater proportion than average, should be taken under serious consideration as an appropriate sentencing factor.

Finally, it should be noted that most of the other individuals convicted in this same conspiracy received far lower sentences than the statutory mandatory minimum of ten years as is called for here, according to the terms of Mr. Martinez's plea agreement. I don't know who, if anyone, among the other defendants received their sentence(s) as the result of cooperation, but Mr. Martinez had no such opportunity; having withdrawn and been arrested long after the cases of the others were resolved.

For all of the foregoing reasons, I respectfully urge Your Honor to sentence Mr. Martinez to the statutory mandatory minimum of ten years which, I respectfully submit, is more than enough to satisfy Title 18 U.S.C. § 3553(a) considerations. This is particularly true considering his efforts to maintain gainful employment over recent years (indeed, over the majority of his adult life, as is set forth in ¶ 62 of the PSR) coupled with the fact Mr. Martinez had been leading a crime free life over the last several years, having been arrested more than three years **after** the criminal activity leading to his guilty plea ended. Whatever sentence Your Honor ultimately sees fit to impose, however, I respectfully request that you include a recommendation for a drug program for Mr. Martinez.

Respectfully submitted,

Paul J. McAllister

cc. A.U.S.A. Adam Hickey

# Prestige

Jun 12, 2009

try.txt Car Service, Inc.

Tel: (718) 654-3134 / (718) 654-3852 • Fax: (718) 798-5292

*TO WHOM IT MAY CONCERN:*

*This is to certify that Fredi A. Martinez was affiliated with this company as an independent driver since 09/20/07 thru 10/09/08 under the unit number 341.*

*During this time Mr. Martinez demonstrated to be a very responsible and honest driver but we don't know the reason of he not returning to work.*

*If you need any other information, please contact the undersigned.*

*Truly Yours,*

  
Leonel Jimenez  
Manager

*Page 1*

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Tuesday, June 02, 2009

To Whom It May Concern:

My name is **Arlyn Zacarias** I have been a good acquaintance of Mr. **Freddy Martinez** for well over 7 years.

I hereby constitute, based on my own personal experiences with Mr. **Freddy Martinez** that he is a kind person with a pleasant personality and a great sense of humor, and a good friend overall.

Should you have any questions you may wish to ask, feel free to contact me at my work phone, (347)591-0405. Thank you for your time and attention.

*Arlyn Zacarias*  
JOSE A. DE LEON  
Notary Public, State of New York  
No. 03-4658433  
Qualified in Bronx County  
Commission Expires May 31, 2011

Truly yours:  
*Arlyn Zacarias*  
ARLY ZACARIAS

SWORN TO BEFORE ME

TODAY 2 OF June 2009

May 31<sup>st</sup>, 2009

Dear Ms. Denise Cates

The reason I wrote this letter is because I want you to please consider Freddie Martinez. I know Freddie for over four years, he is a great and wonderful father. Freddie and I are great friends. He is a honest and respectful man.

Please consider him!!

Sincerely,  
July Cates

June 2, 2009

To Whom It May Concern,

I Evelyn Martinez am writing this letter in support of my brother Fredi Martinez as a person with a good heart. A person that supported me in everything I do. He is a great role model to my kids expertly to my son Richard Martinez he has been a father figure to him, also to my daughter Braida Jeffry that thanks to my brother she going to college, she looked up to him. Went I didn't have anyone to help me he always did, financially and mentally. He is a great father to his kids everywhere he went his kids were with him. Every time he came to were we live everyone open their doors to him. He is not the kind of person that will do any harm to any one. Everywhere he went he is love. When I had problems with my kids he'll gave them advices. I thank him alot because of him I have a relationship with my kids. Because of him helping me, my son stay out of problems. We all miss him so much. HE IS A GREAT MAN, A SENSITIVE MAN and A LOVING MAN!

Sincerely,

Evelyn Martinez

TONIS GONZALEZ  
3325 WALLACE AV  
BRONX NY 10467

JUNE 3 2009

To whom it may concern

My name is Tonis Gonzalez I am writing about my  
Brother in law Fredy Martinez I have know Fredy Martinez  
Since he was a young boy I personally want to ask for considerations  
About him Fredy is a good father and husband I know how much his family  
Need him especially his son. He drives his cab and work hard for his family  
They depend on him he is very important for them when Fredy and I got together  
He always told me how much he care for then he is a dedicate father thank you  
For your considerations

ATT. TONIS GONZALEZ



6,119

• h e Sister & Brother & the family to. in Christmas. It was Boring Because he was not here & Holiwen was Boring very very soon. I like it. I like it very much. I like it very much.

Wiles 1970

By: Kassandra Martinez

Rafael Castillo

June 10<sup>th</sup>, 2009

To whom it may concern;

There is a common saying that goes “choose your friends wisely” and for the last 7 years that I know Freddy Martinez I can truly consider him a great friend. Throughout the years, he has showed me he is a very respectful and caring guy. The type to always look out for everybody, the neighbor anybody would like to have living next to them. He is a friendly guy, committed to his family. Never have I seen him lose composure, always nice, calm and humble. He doesn’t look for trouble and will be the first one to walk away to avoid any problems. Freddy and I would get together for a little chat and he always listened and gave me advised. One of the most notable quotes that stand out from him “always be happy, never get mad, you die faster if you don’t.” I write this letter not because I know his a great person or because he is a respectful family man, but because for the last 7 years he has been a good friend, and I thank him for that.

Sincerely



To whom it may concern.

This is to inform you  
that I knew Leduc No's  
Freddy Martinier for about 5 1/2 years  
and Freddy was my taxi driver  
My mother only let me go to  
place's with him. to school to  
my Doctor appointments that is  
he's job being a taxi driver  
MR. Martinier is a good person  
and a good father and a very hard  
working man.

Thank you  
Alice Leduc.

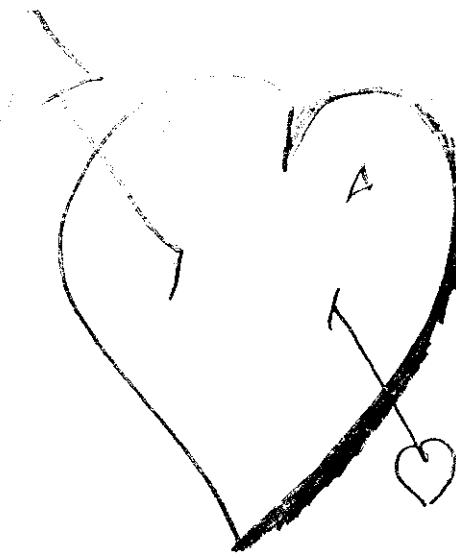
By Alvin Lee

To whom it may concern  
This is to let you no  
that I. Isa Rivera No<sup>o</sup> MR.  
Freddy Martinez for 5 years  
and he is a good person. He  
is a loving Father. a loving  
Husband. and A very nice person  
He is a Hard working men.

Your Truly  
Isa Rivera

To whom it may concern.  
I Adolfo Rodriguez No's freddy  
about 6 years Mr freddy is my  
friend. He is a good man and a  
good person. I no him as a hard  
working man. He is a taxi Driver.  
He is a good father and a good friend.  
and a good family man. He is  
a very good person. with a big  
heart for ever one.

Yours truly  
Adolfo Rodriguez



Dear Denice J. Eote

my name is. Genesis I'm Fredi

Step daughter. I have 3 sisters Amanda,

Samantha and Gianna, I also have 2 brothers

Jonni and Felipe. Fredi always been a father

to me. I known him for 3 years. My mom

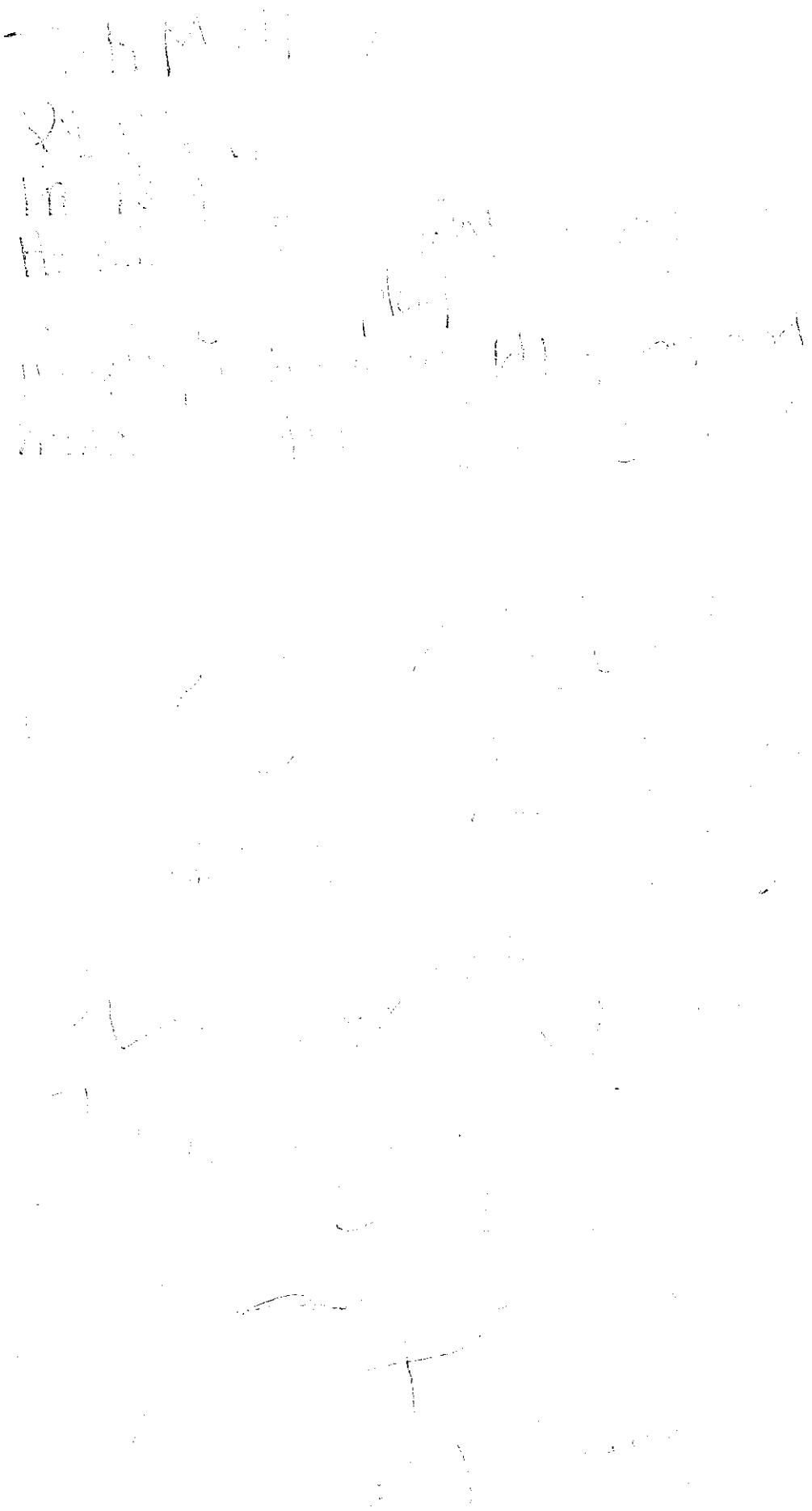
met him when I was born. Since I know

him for a very long time I know he will never

do something to hurt me. He will be a nice

Funny and loving. I love him!

love,  
Genesis





Gianna Martinez

5 years old

Fred's youngest daughter

A little daughter who loves her dad and is

jealous talking about him to much. She

misses him and that he is coming back

She wishes he comes back & give him a big

hug and the feelings within.

I ~~miss~~ you

^

I miss you

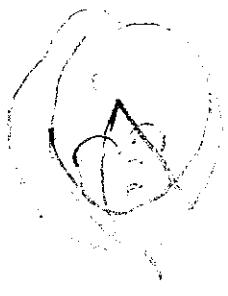
Much. I do what ever it takes to get  
you back

When you come back

I will play with you again, we'll have  
be in my heart and all the memories  
we had together. I always like you to be

Gianna ~~live~~  
Gianna

Gianna



I can't believe it



I'm writing this letter to inform that Freddy is a wonderful son, friend and most a great father. The years that I've known Freddy we shared good memories and wonderful laughter. He's caring, loving, and loyal to the people around him. He has bring us joy and happy moments. He has made mistakes like any other human being. He deserve to be with his kids and wife. His kids miss him and they are suffering because their father ~~is~~ is not there for a good night kiss or ~~I~~ I kiss you. He needs to be here so his family can make him change and continue to being that wonderful friend he is to all of ~~us~~ us.

We love you teddy  
Yasmin D.

I am Freddy's cousin and it hurts me inside to see him away from me. He has taught me what I know this day. That is to live life and enjoy my wonderful mornings. My mother is sad and so is his wife and his children. They come to me ask me "why is my daddy away". I have no answer that can be explained. We all miss you Freddy. His a wonderful cousin and he needs to be here with us. What he has done is not easy but no human should be punished. He's a wonderful and friend human being. He loves his family and kids. I don't think he should be ~~be~~ away from us.

Sincerely,  
Yogulan E



Dear, Parol

Fredi is a wonderful person he treat me like if I am a princess. When he takes me and my sisters and brother to places he holds the door taxi door for us. And everytime we tell him we are hungry he buys us anything we want to eat. And also if we need ~~more~~ money he give it to us. And he does not treat my mom mean he treats her the same way he treats me and my brother and sister. Anytime my brother or sisters need clothe he buys it for us. My brother picks his own clothes and Fredi is ~~pro~~ proud of that. One time ~~he~~ my sisters and brother and me was bored in the house so Fredi said lets go to a fun place then my sister brother and me was so happy. Fredi is a wonderful person.

Sincerely  
E. Adrienne Mejia

Dear, Bird

Fredi is a well man. He always treats me nice. He always had my back. He loves me as if I'm his daughter. I love him. He loves me like always. I would never imagine him in that horrible place. Only she can trust Fredi. He is the best and every one knows it. You can see it in his eyes. Fredi knows how to take care of his family. He takes good care of every one else. Even if you are not part of his family. Fredi was and still is one of my best friends.

Sincerely, Willow 10/10

Felipe Caro

Dear ?, My (Judge) in my love this is  
Fred's son. (Child)

Hi I love my father he's a good person.  
He takes me to a lot of places. One day we were bored  
and he took me to Daves and Busters, and then we went  
to the "AMC" movie theaters. Another day we went  
to Six Flags. He always give me \$100 a week for  
allowance. I love my father he be cooking in the  
kitchen.

I love my father Fredi Antonio Martinez.  
He's my rolemodel. He taxi drives. It's cool. I love  
my father He does what ever I want to  
do like go to Playland, six flags, lazer tag, movie  
theaters, stuff like that, this year I'm graduating  
from 5<sup>th</sup> grade and I'll love if he comes to my  
graduation on June 24, 2009, at P.S. 70x 1691 weeks  
Ave. Bronx, New York 10457 Telephone of school: 718-583-6000  
my phone number is 718-299-8970 Felipe Caro, Felipe Caro.  
At 11:40 will be my graduation. I'll hope to  
see him there ~~please~~ please I know was ya building  
150 parkway I think it ~~is~~ is. So that's why I need my  
father to have fun. I'll garenty you that he won't do something  
any more for the rest of his life because he's getting  
old. bye and have a nice day but just let my dream  
come true. to see him right there looking straight at  
my eye will I'm graduating instead of sad moments.

Sincerely: Felipe Caro  
Felipe Caro.